

STATE OF MARYLAND

Board of Public Works

GOVERNOR • TREASURER • COMPTROLLER

Report to the Legislative Policy Committee
on the Operations and Effectiveness of the

Small Business Reserve Program



Treasury Bldg.
80 Calvert St., Room 117
Annapolis, MD 21401

Fiscal Year 2021

EXECUTIVE SUMMARY

The Small Business Reserve (SBR) Program aims to increase participation in State procurements by small businesses. Under the Program in Fiscal Year (FY) 2021, State agencies were required to structure their procurement procedures to achieve at least 15% of the procurement unit's dollars expended directly with certified small businesses at the prime contract level through procurements designated as "SBR" procurements which limit competition to just small businesses. As reporting on the SBR Program is now handled by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA), this will be the last SBR report prepared and submitted by the Board of Public Works. SBR reporting data for FY 2021 and subsequent years will be included in reports provided by GOSBA.

I. SCOPE OF REPORT

Every designated agency must submit an annual report to GOSBA concerning that agency's experience with the Small Business Reserve Program in the preceding fiscal year.¹ GOSBA is tasked with compiling the annual information and submitting a summarized report to the Board of Public Works and the Legislative Policy Committee.²

II. PROGRAM OPERATION

The Small Business Reserve Program became effective October 1, 2004. The primary goal of the Program is to facilitate the participation of small businesses in Maryland's procurement system. Procurements that are designated "small business reserve" are only open to certified small businesses. Each State agency was required to structure its procurement procedures to ensure that at least 15% of its procurement dollars were expended directly with certified small businesses at the prime contract level through SBR-designated procurements.

Agencies are permitted to restrict a procurement for goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering services to participation by only certified small businesses.³ When an agency restricts a solicitation in that manner, an eligible but uncertified small business may submit a bid/proposal, but that business must be certified before being awarded the contract.⁴

Minority Business Enterprises that meet the size criteria may be certified as small businesses.⁵ Nonprofit organizations are not eligible for certification.⁶ The law excludes procurements to preference providers such as Maryland Correctional Enterprises, Blind Industries and Services of Maryland, and community services providers and individual with disability owned businesses under the Employment Works Program.⁷

III. RECENT CHANGES

Statutory Changes: Effective October 1, 2017, the Small Business Reserve Program was expanded significantly⁸ following recommendations made by the 2016

¹ State Finance and Procurement Article, §14-505(b), Annotated Code of Maryland. Unless otherwise noted, all statutory references in these notes will be to the State Finance and Procurement Article, Annotated Code of Maryland.

² §14-505(c)

³ §14-504(a)

⁴ Code of Maryland Regulations (COMAR) 21.11.01.06

⁵ §14-501(b)(1)

⁶ COMAR 21.11.01.01B(1)

⁷ §14-502(b)

⁸ Chapter 438 (Laws of 2017) revised §§14-501 – 14-505

Commission to Modernize State Procurement chaired by Lt. Governor Boyd Rutherford.⁹ The changes to the Program included:

- Expanding eligibility in the program from 23 designated agencies to all State procurement units.
- Increasing the Small Business Reserve goal from 10% to 15% of all State procurement unit expenditures.
- Limiting the types of expenditures that may be counted towards the Small Business Reserve goal to only expenditures under contracts that resulted from procurements designated as Small Business Reserve procurements. i.e. If a procurement is not given the Small Business Reserve designation, limiting competition to only small businesses, the resulting contract's expenditures may not be counted towards the 15% Small Business Reserve goal, even if the contract is awarded to a certified small business.

eMaryland Marketplace Vendor Database: The vendor database in *eMaryland Marketplace (eMM)* is currently in a state of transition due to the award of a new *eMM* contract, with changed contractors and an entirely new eProcurement system effective July 2019. The vendor database is still being rebuilt from its former state, with all vendors, including small businesses, registered under the old system now required to register with the new system. As a result, the number of small businesses registered in *eMM* is not yet close to the number registered under the old system, but the number of registrations is steadily increasing.

IV. PROGRAM EFFECTIVENESS

In years past the BPW has reported data on the effectiveness of the SBR Program by compiling statistics as provided by procuring agencies to the BPW. However, as agencies are now required to report SBR data solely to GOSBA, and GOSBA is now responsible for the compiling and reporting of agency SBR data and the overall effectiveness of the SBR Program under the current law, the BPW will no longer provide a report including the same data. Recipients of this report are advised to review the SBR data published by GOSBA in its annual published reports.¹⁰

⁹ <http://msa.maryland.gov/msa/mdmanual/26excom/defunct/html/29procurem.html>

¹⁰ The FY 2020 GOSBA Annual Report may be found here:
https://gomdsmallbiz.maryland.gov/Reports/FY2020_Annual%20Report.pdf